

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

RAMONA C. SPURLOCK
RAMONA SPURLOCK FITE
DANIEL W. SPURLOCK, JR.
SYBILLE SPURLOCK BROUSSARD

Claim No. CU-0782

Decision No. CU ⁵
2836

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants: Lunn, Irion, Switzer, Johnson & Salley
By W. V. Lunn, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented on July 18, 1966 by RAMONA C. SPURLOCK and is based upon the asserted loss sustained in connection with the ownership of a participation interest in the Cuban Venezuelan Oil Voting Trust. The record disclosing that RAMONA SPURLOCK FITE, DANIEL W. SPURLOCK, JR. and SYBILLE SPURLOCK BROUSSARD are parties in interest, they are joined as claimants herein. Claimants have been nationals of the United States at all times pertinent to this claim.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against property, including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba, and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

On the basis of evidence of record, the Commission finds that DANIEL W. SPURLOCK, now deceased, was since prior to November 23, 1959 the owner of 500 units of participation in the Cuban Venezuelan Oil Voting Trust (hereafter referred to as "the Trust"). The participation units in question are represented by certificate No. NY16068.

The evidence reflects that DANIEL W. SPURLOCK, a national of the United States, died intestate on April 18, 1966 in Louisiana. According to a Judgment of the First District Court of Caddo Parish, Louisiana, his widow, RAMONA CANNON SPURLOCK is entitled to a one-half interest in all the property left by the decedent and to the usufruct during her life of the other undivided one-half interest in said property, and RAMONA SPURLOCK FITE, DANIEL W. SPURLOCK, JR., and SYBILLE SPURLOCK BROUSSARD, children of the deceased are entitled, subject to the usufruct of their mother, to one-third each of the one-half of the property left by the decedent.

The record discloses that the properties in Cuba owned or controlled by the Trust were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, pursuant to Law No. 635, published on that date. This corporation was organized under the laws of Cuba and does not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held previously that a stockholder, or the owner of a participation interest in such a corporation, is entitled to file a claim based upon the securities in question, which

represent an interest in the losses sustained by a nationalized enterprise within the purview of Section 502(3) of the Act. (See Claim of Parke, Davis, & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

In determining the value of the interest owned by claimants in the Trust, the Commission has considered information submitted by officers and stockholders of the Trust, balance sheets for the year ended December 31, 1959, the Trust's annual report for that year, and other evidence of record submitted in this and other claims before the Commission. On the basis of the entire record, the Commission concludes that the dollar loss sustained by the Trust on November 23, 1959 was \$1,106,388.76, and that the loss per unit of participation for each of the 9,247,162 units was \$0.11971, or 11.97 cents. (See Claim of Felix Heyman, Claim No. CU-0412.)

Accordingly, in the instant claim, the Commission finds that claimants, as holders of 500 units of participation in the Trust succeeded to and suffered a loss in the amount of \$59.86 within the meaning of Title V of the Act, when the properties owned or controlled by the Trust were nationalized or otherwise taken by the Government of Cuba on November 23, 1959.

As stated above, one-half of the property vested in RAMONA C. SPURLOCK and one-half was encumbered with a life estate in her favor. According to evidence of record, RAMONA C. SPURLOCK was 62 years at the time of the loss, November 23, 1959. The interest of the three children was a remainder interest. The value of the life estate and of the remainder interest must be determined.

The Commission has adopted as a basis for the valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F.R. 4547, 26 C.F.R. 2031-7.) According to that method of valuation, a life estate in property so encumbered is valued at .37165 of the entire estate. Therefore, since the value of the property subject to the life estate is \$29.93, the life estate

is valued at \$11.12 (29.93 x .37165). The remainder interest in the property is valued at \$18.81 (29.93 - 11.12). (See Claim of Felix Heyman, Claim No. CU-0412.)

is valued at \$11.12 which is .37165 of that amount and the remainder is valued at \$18.81 which is .62835 of that amount.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. Cu-0644.)

Accordingly, the Commission concludes that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from November 23, 1959, the date of loss, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that RAMONA C. SPURLOCK succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty One Dollars and Five Cents (\$41.05) with interest at 6% per annum from November 23, 1959 to the date of settlement; and

the Commission certifies that RAMONA SPURLOCK FITE succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Dollars and Twenty-Seven Cents (\$6.27) with interest at 6% per annum from November 23, 1959 to the date of settlement; and

the Commission certifies that DANIEL W. SPURLOCK, JR., succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Dollars and Twenty-Seven Cents (\$6.27) with interest at 6% per annum from November 23, 1959 to the date of settlement; and

the Commission certifies that SYBILLE SPURLOCK BROUSSARD succeeded to and suffered a loss, as a result of actions of the Government of Cuba within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Dollars and Twenty-Seven Cents (\$ 6.27) with interest at 6% per annum from November 23, 1959 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

AUG 21 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Weisberg

Sidney Weisberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)